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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-266
Rate Regulation	)	

REPLY COMMENTS OF VENTURA COUNTY CABLEVISION

Ventura County Cablevision ("VCC"), by its attorneys, hereby offers this Reply to the Comments previously submitted in this proceeding by the City of Thousand Oaks, California (the "City"). VCC operates a cable television system in the city of Thousand Oaks and surrounding communities. VCC is troubled by certain inaccuracies and misperceptions expressed by the City, as well as certain of the City's regulatory recommendations. We will not burden the Commission here with a point-by-point rebuttal, and we refer the Commission to the filings of Cole, Raywid & Braverman (in which VCC's parent company, Western Communications, participated) for a comprehensive discussion of cable rate regulation. VCC feels compelled, however, to respond to a few critical aspects of the City's Comments.

I. The Commission's Regulations Must Protect The Cable Industry From Antagonistic Franchising Authorities

The City of Thousand Oaks obviously holds the cable television industry in low regard. That antagonism is manifested throughout the City's Comments. For example, the City refers repeatedly to anecdotal evidence of local subscriber dissatisfaction, see, e.g., City Comments at 2, while failing to mention that the subscriber survey it conducted in 1991 revealed a very different sense of subscriber satisfaction. That survey recorded an overall satisfaction level of eighty-eight percent (88%). Ninety percent (90%) of all subscribers were satisfied with the number of channels offered, and almost eighty percent (80%) believed their cable service was a good value. This high level of satisfaction has been confirmed by subsequent surveys and customer contacts.

The City's failure to understand the positive relationship between VCC and its subscribers is further illustrated by the City's claim that Thousand Oaks is a "captive" cable market, in which VCC exploits the demand for minimal broadcast reception. Id. at 11. The characterization does not comport with reality. Indeed, less than 1% of VCC's subscribers in Thousand Oaks opt for broadcast basic service, despite the fact that the 15 channel service is available at just sixty-five percent (65%) of the rate for the expanded 30 channel package.

While the City professes great concern with the exploitation of those who receive this broadcast service, the simple truth is this subscriber group is extremely small and by no stretch of the imagination subsidizes full service subscribers.

The City's suspicion regarding cable television is revealed in its unsubstantiated fear that cable operators will engage in "creative bookkeeping methods" to mask "monopoly-level profits." Id. at 8. And it goes on to complain about VCC's pending 5% increase in its broadcast basic rate as some nefarious effort to sneak in one more rate increase "under the wire." Id. at 16. The City conveniently ignores that the current $12.95 rate for broadcast basic was introduced in 1990, and VCC voluntarily refrained from increasing that rate in 1991 and 1992. The pending rate increase is far lower that the rise in the CPI during this same period. The City also forgets that VCC will continue to offer a substantial thirty percent (30%) discount to qualified low-income seniors and handicapped, a discount VCC voluntarily introduced in 1988.

VCC is not asking the Commission to referee its relationship with the City of Thousand Oaks. The attitude of Thousand Oaks is, unfortunately, shared by many local governments across the country. The point here is that the Commission must be careful to limit the regulatory discretion of these hostile franchising authorities. There is a very real danger that these

entities will otherwise strangle the cable television industry. Indeed, faced with the regulatory approach now espoused by the City, VCC might never have embarked on its recent $25 million rebuild of the system serving Thousand Oaks.

VCC appreciates that Congress has mandated rate regulation and that the Commission is obligated to honor that mandate. But the Commission is also obligated to promote the nation's communications offerings and protect the cable television industry and its subscribers from misguided local regulation. Indeed, the Commission must ensure that the procedural and substantive regulations adopted in this proceeding are compatible with the continued development of the cable television industry. Congress acted to protect consumers from abuse, not to cripple the cable industry.

The recent barrage of news stories announcing the entry into the cable television field by major telephone companies poignantly reveals that this industry is an increasingly competitive and risky one. Comments filed by franchising authorities, like Thousand Oaks, reveal a startling disinterest in these developments and their effect on cable operators. The City complains, for instance, that VCC has engaged in an expensive rebuild of the system, but has so far failed to fully activate the resulting channel capacity. The City argues that VCC should therefore be denied the recovery of any of this

investment. Id. at 19. But that approach would undermine rational planning and infrastructure development. Cable operators should be encouraged to upgrade their plant, and must not be penalized financially, because they want to roll out new product in a sensible and orderly fashion. In this case, VCC will add programming once channel capacity is increased throughout the integrated system. The City must understand that VCC is not in the business of investing $25 million without any prospect for positive return.

II. Franchising Authorities Must Accept Rates That Comply With Established Benchmarks

The City professes support for a "benchmark" regulatory approach, but then undermines the essence of that approach by arguing that franchising authorities should be able to review even those rates that fall within the designated benchmarks. Id. at 4. This would, of course, eviscerate the efficiencies the Commission was striving to achieve in advancing the benchmark approach. Indeed, it would render the approach meaningless. Regulation of the sort advocated by the City would simply fuel further rate increases by adding additional costs to cable operations, and would lead to the postponement or cancellation of major capital investments.

When all is said and done, benchmarks will accomplish little if skeptical franchising authorities are free to ignore

them and unilaterally subject cable operators to cost-of-service regulation. VCC submits that compliance with the designated benchmarks should automatically satisfy a cable operator's rate obligations. Cost-of-service showings should be reserved solely for those operators who require a rate exceeding the benchmark level to secure a reasonable profit.

III. Rate Uniformity Should Not Be Required Among Different Communities

VCC is in basic agreement with the City's interpretation of the 1992 Cable Act's "uniform rate" provision. As the City correctly notes, differences amoung different communities require that mandatory "uniformity" be limited to each franchise area. Rate variations are especially critical where neighboring franchising authorities impose very different franchise obligations.

While the City accuses VCC of treating Thousand Oaks as a "cash cow," id. at 20, the real problem for VCC's subscribers is that the City is behaving like a "capital hog." Congressional concern with this very problem led to the inclusion of a line-itemization provision in the 1992 Cable Act. See 47 U.S.C. § 542(c). That tool was designed to help combat the flight from political accountability.

In VCC's current renewal discussions, the City has requested a variety of commitments that will add substantially to

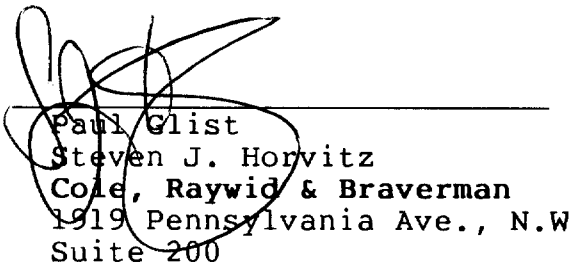
VCC's local operating costs. It would be unfair to both VCC and the surrounding communities to deny VCC the ability to recapture those costs from its Thousand Oaks subscribers. Any other result would effectively penalize more reasonable franchising authorities and escalate demands for facilities and services of little or no benefit to subscribers.

CONCLUSION

The Comments filed by the City of Thousand Oaks complain about rate increases, but almost entirely ignore the improvements VCC has made in cable service since the system was rate deregulated in 1986. These improvements include a fifty percent (50%) increase in programming, and a host of enhancements in facilities and staffing. The City's one-sided approach to the issue of rate regulation will be disastrous if not curbed by the Commission. For the foregoing reasons, Ventura County Cablevision urges the Commission to ensure that the rate regulations adopted in this proceeding protect cable operators and cable subscribers from excessive local regulation.

Respectfully submitted,

Ventura County Cablevision

by: 

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